

## CHAPTER 72—ANTIDISCRIMINATION; RIGHT TO PETITION CONGRESS

### SUBCHAPTER I—ANTIDISCRIMINATION IN EMPLOYMENT

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#### AMENDMENTS

1978—Pub. L. 95-454, title VII, § 703(a)(2), Oct. 13, 1978, 92 Stat. 1217, struck out heading “SUBCHAPTER II—ANTIDISCRIMINATION IN EMPLOYMENT” and substituted therefor a chapter heading “CHAPTER 72—ANTIDISCRIMINATION; RIGHT TO PETITION CONGRESS” together with the analysis of chapter 72 containing subchapters I, consisting of items 7201 to 7204, and subchapter II, consisting of item 7211.

### SUBCHAPTER I—ANTIDISCRIMINATION IN EMPLOYMENT

#### AMENDMENTS

1979—Pub. L. 96-54, § 2(a)(43), Aug. 14, 1979, 93 Stat. 383, added heading for subchapter I.

#### § 7201. Antidiscrimination policy; minority recruitment program

(a) For the purpose of this section—

(1) “underrepresentation” means a situation in which the number of members of a minority group designation (determined by the Equal Employment Opportunity Commission in consultation with the Office of Personnel Management, on the basis of the policy set forth in subsection (b) of this section) within a category of civil service employment constitutes a lower percentage of the total number of employees within the employment category than the percentage that the minority constituted within the labor force of the United States, as determined under the most recent decennial or mid-decade census, or current population survey, under title 13, and

(2) “category of civil service employment” means—

(A) each grade of the General Schedule described in section 5104 of this title;

(B) each position subject to subchapter IV of chapter 53 of this title;

(C) such occupational, professional, or other groupings (including occupational series) within the categories established under subparagraphs (A) and (B) of this paragraph as the Office determines appropriate.

(b) It is the policy of the United States to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex, or national origin. The President shall use his existing authority to carry out this policy.

(c) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Office of Personnel Management shall, by regulation, implement a minority recruitment program which shall provide, to the maximum extent practicable—

(1) that each Executive agency conduct a continuing program for the recruitment of members of minorities for positions in the agency to carry out the policy set forth in subsection (b) in a manner designed to eliminate underrepresentation of minorities in the various categories of civil service employment within the Federal service, with special efforts directed at recruiting in minority communities, in educational institutions, and from other sources from which minorities can be recruited; and

(2) that the Office conduct a continuing program of—

(A) assistance to agencies in carrying out programs under paragraph (1) of this subsection, and

(B) evaluation and oversight and such recruitment programs to determine their effectiveness in eliminating such minority underrepresentation.

(d) Not later than 60 days after the date of the enactment of the Civil Service Reform Act of 1978, the Equal Employment Opportunity Commission shall—

(1) establish the guidelines proposed to be used in carrying out the program required under subsection (c) of this section; and

(2) make determinations of underrepresentation which are proposed to be used initially under such program; and

(3) transmit to the Executive agencies involved, to the Office of Personnel Management, and to the Congress the determinations made under paragraph (2) of this subsection.

(e) Not later than January 31 of each year, the Office shall prepare and transmit to each House of the Congress a report on the activities of the Office and of Executive agencies under subsection (c) of this section, including the affirmative action plans submitted under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), the personnel data file maintained by the Office of Personnel Management, and any other data necessary to evaluate the effectiveness of the program for each category of civil service employment and for each minority group designation, for the preceding fiscal year, together with recommendations for administrative or legislative action the Office considers appropriate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 523, § 7151; renumbered § 7201 and amended Pub. L. 95-454, title III, § 310, title VII, § 703(a)(1), Oct. 13, 1978, 92 Stat. 1152, 1216.)

#### HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	42 U.S.C. 2000e(b) (2d proviso).	July 2, 1964, Pub. L. 88-352, § 701(b) (2d proviso), 78 Stat. 254.

The word “Federal” is omitted as unnecessary in view of the definition of “employee” in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### REFERENCES IN TEXT

The date of the enactment of the Civil Service Reform Act of 1978, referred to in subsecs. (c) and (d), is

the date of the enactment of Pub. L. 95-454, which was approved Oct. 13, 1978.

#### AMENDMENTS

1978—Pub. L. 95-454, §703(a)(1), renumbered section 7151 of this title as this section.

Pub. L. 95-454, §310(1), substituted “Antidiscrimination policy; minority recruitment program” for “Policy” in section catchline.

Subsecs. (a) to (e). Pub. L. 95-454, §310(2)–(4), added subsec. (a), designated existing provisions as subsec. (b), and added subsecs. (c) to (e).

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 310 of Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (e) of this section, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 187 of House Document No. 103-7.

#### WORKPLACE POLICIES PROHIBITING DISCRIMINATION AND SEXUAL HARASSMENT

Pub. L. 110-161, div. D, title VII, §716, Dec. 26, 2007, 121 Stat. 2023, provided that: “Hereafter, no department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241) [42 U.S.C. 2000e et seq.], the Age Discrimination in Employment Act of 1967 (Public Law 90-202, 81 Stat. 602) [29 U.S.C. 621 et seq.], and the Rehabilitation Act of 1973 (Public Law 93-112, 87 Stat. 355) [29 U.S.C. 701 et seq.].”

#### DISCRIMINATION PROHIBITED IN EMPLOYMENT OF CIVILIAN PERSONNEL AT FACILITIES OPERATED BY THE DEPARTMENT OF DEFENSE IN FOREIGN COUNTRIES

Pub. L. 92-129, title I, §106, Sept. 28, 1971, 85 Stat. 355, provided that: “Unless prohibited by treaty, no person shall be discriminated against by the Department of Defense or by any officer or employee thereof, in the employment of civilian personnel at any facility or installation operated by the Department of Defense in any foreign country because such person is a citizen of the United States or is a dependent of a member of the Armed Forces of the United States. As used in this section, the term ‘facility or installation operated by the Department of Defense’ shall include, but shall not be limited to, any officer’s club, non-commissioned officers’ club, post exchange, or commissary store.”

#### § 7202. Marital status

(a) The President may prescribe rules which shall prohibit, as nearly as conditions of good administration warrant, discrimination because of marital status in an Executive agency or in the competitive service.

(b) Regulations prescribed under any provision of this title, or under any other provision of law, granting benefits to employees, shall provide the same benefits for a married female employee and her spouse and children as are provided for a married male employee and his spouse and children.

(c) Notwithstanding any other provision of law, any provision of law providing a benefit to

a male Federal employee or to his spouse or family shall be deemed to provide the same benefit to a female Federal employee or to her spouse or family.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 523, §7152; Pub. L. 92-187, §3, Dec. 15, 1971, 85 Stat. 644; renumbered §7202, Pub. L. 95-454, title VII, §703(a)(1), Oct. 13, 1978, 92 Stat. 1216.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 633(2)6 (less 1st sentence).	July 26, 1937, ch. 522, 50 Stat. 533.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302. The section is rewritten as a general prohibition instead of specifying each of the personnel actions to which the prohibition applies. The words “in an Executive agency or in the competitive service” are added for clarity. The sentence “All Acts or parts of Acts inconsistent herewith are repealed.” is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### AMENDMENTS

1978—Pub. L. 95-454, renumbered section 7152 of this title as this section.

1971—Pub. L. 92-187 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

#### § 7203. Handicapping condition

The President may prescribe rules which shall prohibit, as nearly as conditions of good administration warrant, discrimination because of handicapping condition in an Executive agency or in the competitive service with respect to a position the duties of which, in the opinion of the Office of Personnel Management, can be performed efficiently by an individual with a handicapping condition, except that the employment may not endanger the health or safety of the individual or others.

(Pub. L. 89-544, Sept. 6, 1966, 80 Stat. 523, §7153; renumbered §7203 and amended Pub. L. 95-454, title I, §101(b)(2), title VII, §703(a)(1), title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1118, 1216, 1224.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 633(2)9.	June 10, 1948, ch. 434, 62 Stat. 351.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302. The section is rewritten as a general prohibition instead of specifying the personnel actions included in former section 633(2)9. The words “in an Executive agency or in the competitive service” are added for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### AMENDMENTS

1978—Pub. L. 95-454, §703(a)(1), renumbered section 7153 of this title as this section.

Pub. L. 95-454, §101(b)(2), 906(a)(2), substituted “Handicapping condition” for “Physical handicap” in section catchline, “handicapping condition” for “phys-